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In re Reissue Application of: : DECISION  
Rodney W. Gedney et al. : ACCEPTING PAPERS  
Serial No.: 09/004,524 :  
Filed: January 8, 1998 :  
Attorney Docket No.: EN9-91-022R :

This is a decision accepting the "REPLY TO SUPPLEMENTAL EXAMINER'S ANSWER" filed on September 16, 2005, via facsimile transmission, as being timely filed.

A supplemental examiner's answer was mailed to the appellant on January 4, 2005. 37 C.F.R. § 1.193 provides a two month response period for which appellant may file a reply brief to a supplemental examiner's answer. The "REPLY TO SUPPLEMENTAL EXAMINER'S ANSWER" filed on September 16, 2005, via facsimile transmission, includes a Certificate of Transmission dated February 18, 2005. If the original reply was received at the PTO on February 18, 2005, it would have been a timely reply to the supplemental examiner's answer.

The original reply is not in the file record and cannot be located. However, in response to a telephone call from Special Programs Examiner Edward Westin on September 15, 2005, appellant filed the reply of September 16, 2005 which is a copy of the original reply filed February 18, 2005. The reply filed September 16, 2005 includes: a statement which attests to the previous transmission of the reply on February 18, 2005; a copy of the sending unit's report confirming transmission of the original reply on February 18, 2005; and an "Auto-Reply Facsimile Transmission" confirming receipt of the original reply at the USPTO on February 18, 2005. The evidence is sufficient under 37 C.F.R. § 1.8(b) to establish that the original reply was timely filed.

The copy of the original reply filed on September 16, 2005 is hereby accepted as being timely filed and accepted for entry in the file record since the original reply was lost. The file will be returned to the examiner for consideration of the reply.

Any inquiries regarding this decision should be directed to Edward Westin at (571) 272-1638.



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